levels within both organizations.

24.

In addition to the problems ACSI experienced in provisioning loops for new customers, ACSI's customers have experienced quality of service problems following provisioning with unbundled loops ACSI purchased from BellSouth. In February, 1997, three of ACSI's customers suffered unexplained service disconnection. The three customers that suffered such disconnection are Country's Barbecue, Jefferson Pilot, and Columbus Tire.

25.

The disconnection by BellSouth of Country's Barbecue, a restaurant with five locations in Columbus, took place on Friday, February 21, 1997 at approximately 4:45 p.m., just prior to the dinner hour. The owner of Country's Barbeque is an active member of the Chamber of Commerce and a highly visible citizen of the Columbus, Georgia community. Country's Barbecue takes orders by phone, and relies upon phone orders to provide take-out service at the dinner hour. Service was disconnected for two hours at all five locations. In addition to service disruption, Country's Barbeque experienced excessive volume losses, apparently because BellSouth designed ACSI's unbundled loops to have excessive (8 decibels) of loss. BellSouth has explained that the service disruptions were the result of taking the lines down for maintenance regarding the volume loss problem. BellSouth has offered no explanation, however, for its failure to notify ACSI or its customers prior to such disconnection for maintenance. As a result of the volume problem and service disruption, Country's Barbecue terminated ACSI service and returned to BellSouth service.

26.

The disconnection of Jefferson Pilot took place on Friday, February 21, 1997, also in the evening. Jefferson Pilot receives facsimiles from its home office on Friday afternoon. This disconnection prevented Jefferson Pilot from receiving such facsimiles on Friday and over the weekend and significantly disrupted its business. The following week Jefferson Pilot terminated ACSI service and returned to BellSouth service.

27.

The disconnection of Columbus Tire took place on Monday, February 24, 1997 and, as with the other two disconnections, significantly disrupted its business. The customer's service was disrupted in the late afternoon, was down for almost an hour, and was restored only as a result of aggressive efforts on the part of ACSI employees. BellSouth has admitted to ACSI that this disruption was the result of human error.

28.

Despite the fact that six months have passed since the filing of ACSI's initial complaint,[1] BellSouth continues to be unable to meet cutover intervals, causing significant disruption for ACSI's customers and causing additional damage to ACSI's reputation in Columbus. ACSI's Interconnection Agreement with BellSouth requires a 5-minute cutover interval. Attached is a chart marked Exhibit B which shows the cutover intervals for ACSI unbundled loops provisioned by BellSouth during mid-April. This chart demonstrates that not only has BellSouth continued to exceed the 5-minute cutover interval, but several of the cutover intervals have exceeded two hours. Even considering that these orders involve multiple lines, such intervals are excessive and completely unacceptable. ACSI cannot achieve provisioning parity, and parity in customer

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1 Docket No. 7212-U.

satisfaction, if it takes significantly longer for BellSouth to cut over its CLEC customer loops than it takes to cutover its own customers' lines. Customers are likely to be reluctant to switch to competitive providers when faced with the prospect of such lengthy disruptions. Moreover, customers that begin their ACSI service experience with longer cutovers often receive a poor first impression of ACSI service, which is in fact merely a reflection of BellSouth's substandard cutover process. Despite the passage of six months' time, BellSouth still has not conformed its loop cutover intervals to the Interconnection Agreement, and is still routinely cutting customers over in unacceptable intervals. BellSouth is also routinely starting cutovers late (a mere matter of punctuality) which exacerbates lengthy cutovers when they occur.

29.

ACSI has recently experienced acute problems with number portability that have led to lengthy service disruptions across roughly 90 percent of ACSI's customer base. Like ACSI's other negative experiences with BellSouth's interconnection and unbundling services, these problems could potentially have a devastating impact on ACSI's service reputation in Columbus, Georgia and elsewhere. On Monday, April 21, 1997 at 10:00 a.m., BellSouth was scheduled to port four lines for an ACSI customer. At 11:15 a.m., BellSouth called to say that they could not reach the number. The problem, which proved to be a number portability problem, was resolved at approximately 12:15 p.m. The problem has since recurred at least twice.

30.

The first recurrence was on the morning of Wednesday, April 23 when ACSI was deluged with calls from across its customer base due to an outage that lasted at least an hour and a half starting at approximately 8:00 a.m. During this period, ACSI customers could make calls (as they did to ACSI), but incoming calls received a busy signal. An ACSI service representative verified the problem in the midst of the crisis by calling all her customer numbers; she received the same busy signal on all her customer lines. Despite the fact that ACSI had given this problem high priority with BellSouth, including describing it in detail in publicly-filed testimony,[2] BellSouth still did not correct the problem.

31.

The second recurrence was on Thursday, May 22, 1997. At about 3:00 p.m. on May 22, ACSI began to receive trouble reports from its Columbus customers of "can't be called" and "false busies." ACSI immediately contacted BellSouth and told it to check for the same number portability problem that had caused ACSI customer crises on two prior occasions. At about 5:00 p.m., BellSouth reported that the problem had been corrected. Again, the problem affected almost the entire ACSI customer base.

32.

BellSouth has since admitted that the problem was the result of human error. ACSI conducted lengthy discussions with BellSouth concerning this issue during which BellSouth explained that the problem emanates from the Simulated Facilities Group ("SFG"), a required field in the switch translators when building remote call forwarding. This field tells the switch how many incoming paths are allowed to be ported to a particular telephone number.[3] According to BellSouth, the Columbus Main 1AESS switch has an upper limit of 256 SFGs per switch. In order to circumvent this limitation, BellSouth somehow reset the number of SFGs to "unlimited." According to BellSouth, on April 23, a BellSouth craft level employee reset the SFG on the Columbus Main 1AESS to zero, making it impossible for ACSI customers to receive incoming

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2 Rebuttal Testimony of C. William Stipe III filed in Docket No. 7212-U, April 30, 1997, pp. 4-5.

3 For example, on a given three line hunt group, three incoming paths would need to be allowed on the lead number.

calls. As to the May 22 incident, the SFG was reset to 10, permitting only 10 ported numbers off of that switch. BellSouth has reportedly revised its procedures to include a second switch for overflow, added periodic inspection of the switch and provided additional training for its personnel in attempt to prevent further such occurrences.

33.

In addition to the significant problems described above affecting many of ACSI's customers, a number of customer-specific problems have also been suffered by individual ACSI customers. When these problems are combined with more global problems, such as number portability, they become a significant source of customer dissatisfaction that ultimately results in the loss of customers. A cross-section of customers experiencing these problems is presented below:

- Wendell's Hair was dropped from directory assistance following cutover on May 21, 1997. Customers calling directory assistance were informed that no listing was available for Wendell's Hair. Directory assistance for this ACSI customer was not established until early June.

- Omega Finance was an ACSI resale customer that ordered two additional lines for its hunt group. ACSI submitted the order three times: on May 9, May 12 and on May 16. BellSouth then delayed adding the two new lines by five days, finally provisioning them on May 21. A hunt group consists of a number of lines accessed by a single incoming phone number. The lines ring in sequence, past the busy lines, "hunting" for an available line. A mailbox is often provided at the end of the sequence of lines for voice messages when no line is available. When BellSouth provisioned the two new lines to the hunt group, they were assigned at the end of the hunt group, after the mailbox. Because of this arrangement, these lines were not available for incoming calls -- calls reached the mailbox prior to reaching the new lines. ACSI reported the hunting problem to BellSouth. On May 27, Omega Finance reported that the problem persisted. ACSI again contacted BellSouth and BellSouth finally corrected the problem. However, based on this experience, Omega Finance left ACSI service shortly thereafter and returned to BellSouth.

- Service to the Law Firm of Agnew, Schlam and Bennett ("ASB") was established incorrectly in a manner such that incoming collect calls were blocked. Clients calling collect received a message that the line was out-of-service. The firm could not afford the disruption of its business and this problem therefore caused ACSI to lose the customer to BellSouth.

Problems such as these affect customers which often have multiple locations and multiple access lines. These are generally the customers with the potential to generate the greatest revenue. While ACSI is vitally concerned with retaining such high revenue customers, the satisfaction of every customer is critical to ACSI's success. ACSI cannot expand in Columbus -- a smaller market in which word of mouth means everything -- if a significant percentage of its customers experience service breakdowns.

34.

BellSouth's problems in provisioning customers for CLECs are dramatically demonstrated by ACSI's experience serving Victory Auto Parts ("VAP"). VAP received service over a total of 37 access lines at eight locations. Nine of these lines were served using unbundled loops and the remaining twenty-eight were served by resale. BellSouth initially failed to provide due dates for provisioning VAP's lines, forcing ACSI to escalate the matter with BellSouth. When BellSouth finally provisioned this customer, lines for two locations were crossed resulting in service disruption. Shortly after provisioning, the customer suffered service disruptions as a result of the BellSouth number portability problems, described above, that affected virtually all of ACSI's customers. On May 28, 1997, as a result of these combined problems, VAP attempted to return to BellSouth service. BellSouth made several unsuccessful attempts to reconnect VAP to BellSouth Service during the next week, each of which resulted in service disruption. VAP became so dissatisfied with BellSouth that VAP contacted ACSI and agreed to continue service if ACSI would intervene on its behalf with BellSouth. However, subsequent service disruptions by BellSouth caused VAP to eventually terminate ACSI service and return to BellSouth. Revenue from this customer account is more than $16,000 annually.

35.

The loss of business to ACSI as a result of the termination of service by Omega Finance, ASB and VAP represents a total of 48 access lines.

III. JURISDICTION

36.

The Commission has jurisdiction to hear this complaint pursuant to the Telecommunications and Competition Development Act of 1995 ("S.B. 137), O.C.G.A. §§ 46-5-160 *et seq.*, and Commission Rule 515-2-1-.04. Specifically, O.C.G.A. § 46-5-168(a) grants the Commission jurisdiction to implement and administer the express provisions of S.B. 137. Further, the Commission has jurisdiction to resolve complaints regarding a local exchange company's service, O.C.G.A. § 46-5-168(b)(5), and jurisdiction to direct telecommunications companies to make investments and modifications necessary to enable portability. O.C.G.A. § 46-5-168(b)(10). The jurisdictional provisions of S.B. 137 also require that the Commission consider prevention of anticompetitive practices in any rulemaking under S.B. 137. O.C.G.A. § 46-5-168(d)(2).

IV. ARGUMENT

37.

In enacting S.B. 137, the Georgia General Assembly clearly stated its finding that the public interest is best served by market based competition for telecommunications services. O.C.G.A. § 46-5-161(a)(1). BellSouth's failure to provide unbundled loops is anticompetitive and will prevent competition from flourishing in Georgia. Without access to unbundled loops, competitive providers of telecommunications services cannot provide services to customers and cannot effectively compete with the incumbent provider. Similarly, delaying access to unbundled loops, and disrupting customers' service during the transition, and thereafter damages the competitive provider's reputation for quality of service.

38.

Part of the General Assembly's intent in enacting S.B. 137 was to protect the consumer during the transition to competitive markets. O.C.G.A. § 46-5-161(b)(2). BellSouth's failure to provide unbundled loops not only damages the competitive service provider but also directly harms the consumers. The prospect of being denied service for hours or entire days in order to change telecommunications providers will be unacceptable to many business and residential customers.

39.

BellSouth has known that it would be required to unbundle local loops since the passage of S.B. 137 by the Georgia General Assembly, which was effective July 1, 1995. BellSouth has had a year and a half to implement procedures for the unbundling of the local loop, yet the procedures to do so are clearly not formalized within BellSouth, are not tested to ensure adequate performance, and are not implemented to function as required by Georgia and Federal law. S.B. 137 states:

> (a) All local exchange companies shall permit reasonable interconnection with other certificated local exchange companies. This subsection includes all or portions of such services as needed to provide local exchange services.
>
> . . .
>
> (d) Such interconnection services shall be provided for intrastate services on an unbundled basis similar to that required by the FCC for services under the FCC's jurisdiction.
>
> . . .
>
> (g) The commission shall have the authority to require local exchange companies to provide additional interconnection services and unbundling.

O.C.G.A. § 46-5-164. S.B. 137 incorporates by reference the Federal unbundling standards contained in the Telecommunications Act of 1996 ("Federal Act"), signed into law on February 8,

1996. The passage of the Federal Act gave further notice to BellSouth that it must implement procedures for the unbundling of the local loop. Section 251(c)(3) of the Federal Act creates a duty on incumbent LECs such as BellSouth:

> to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. An incumbent local exchange carrier shall provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.

40.

BellSouth has breached this duty to provide ACSI unbundled loops "in accordance with the terms and conditions of the agreement" negotiated by ACSI and BellSouth and approved by this Commission on November 8, 1996 and has thereby violated O.C.G.A. § 46-5-164(d), as well as Section 251(c)(3) of the Federal Act. BellSouth has failed to comply with several sections of the Interconnection Agreement as approved by the Commission, including but not limited to Sections IV.C, IV.D, and IV.E.

41.

BellSouth was directed to provide unbundled loops by the Commission's Interim Order in Docket Nos. 6415-U and 6537-U, signed by the Chairman and Executive Secretary on August 21, 1996. By delaying the provision of unbundled loops, or making their acquisition prohibitive to the CLEC and its customers, BellSouth has violated the express provisions of this order.

42.

The Commission has the authority to allow local exchange companies to resell services purchased from other local exchange companies. O.C.G.A. § 46-5-164(e). Section 251(c)(4) of the Federal Act imposes the duty upon incumbent local exchange companies, such as BellSouth, to offer telecommunication services for resale. Pursuant to its authority, the Commission directed BellSouth to provide services for resale, at discount rates set by the Commission, by Order dated June 12, 1996, in Docket No. 6352-U. The delays in provisioning and service disruptions experienced by ACSI in reselling BellSouth services demonstrate that BellSouth has violated its statutory obligation to provide services for resale, as well as the Commission's order in Docket No. 6352-U, and breached its Resale Agreement with ACSI.

43.

S.B. 137 provides that "all local exchange companies shall make necessary modifications to allow portability of local numbers between different certified providers of local exchange service . . . ." O.C.G.A. § 46-5-170. The Commission is conducting proceedings under Docket No. 5840-U to assure that the goals of number portability are achieved. Number portability is intended to make switching telecommunications providers as effortless and transparent as possible for the consumer. Number portability encourages the development of competition by minimizing the impact to the consumer of switching providers. The difficulties that ACSI's customers in Columbus are experiencing in switching from BellSouth demonstrate that BellSouth has not made required modifications to assure effective interim number portability.

44.

BellSouth has additional obligations as a company that has elected alternative regulation in Georgia. BellSouth applied to the Commission for alternative regulation on July 5, 1995 in Docket No. 5946-U. Pursuant to O.C.G.A. § 46-5-169(4); a company that has elected alternative regulation "[s]hall not, either directly or through affiliated companies, engage in any anticompetitive act or practice . . . ." BellSouth is a direct competitor of ACSI for switched local exchange service customers. BellSouth has engaged in anticompetitive practices by denying access to its essential facilities through its refusal to unbundle local loops. ACSI revenues have been diverted to BellSouth by BellSouth's anticompetitive practices. BellSouth has therefore violated O.C.G.A. § 46-5-169(4).

45.

Furthermore, pursuant to O.C.G.A. § 46-5-163(d), "[a]ny certificate of authority issued by the commission is subject to revocation, suspension, or adjustment where the commission finds upon complaint and hearing that a local exchange company has engaged in unfair competition or has abused its market position." BellSouth is the dominant monopoly provider of switched local exchange service within its service area in Columbus, Georgia. BellSouth has clearly abused its market position and engaged in unfair competition, as discussed above. BellSouth has therefore violated O.C.G.A. § 46-5-163(d).

46.

S.B. 137 prohibits any company electing alternative regulation from giving unreasonable preference or advantage to any customer. O.C.G.A. § 46-5-169(3). BellSouth's failure to provide unbundled loops for the provision of service to ACSI's customers provides an unreasonable preference against ACSI's customers, who have elected to switch service providers, in favor of those customers that elect to remain with BellSouth.

47.

While ACSI will continue to pursue its rights before the FCC, such relief will not be effective or timely in preventing damage to the development of competitive markets in Georgia, while such remedies may compensate ACSI, BellSouth's failure to provide access to unbundled loops will damage all competitive providers and consumers in Georgia. Therefore, ACSI requests that the Commission employ the fullest extent of its authority to protect competitive markets by compelling BellSouth and other incumbent local exchange companies to provide unbundled loops in a timely and efficient manner that does not hinder the conversion of customers to competitive providers such as ACSI.

48.

ACSI's experiences in Docket No. 7212-U demonstrate that interconnection agreements and Commission orders to date do not provide a sufficient enforcement mechanism to assure that the Commission can respond to CLECs' complaints regarding BellSouth's statutory obligation to make its facilities available for local competition. In Docket No. 7212-U, ACSI requested the Commission adopt objective rules governing the provisioning of unbundled loops. On March 20, 1997, the Commission issued a Notice of Inquiry ("NOI") to obtain responses from interested parties regarding performance standards. ACSI, BellSouth and several other parties provided comments in response to the NOI. ACSI reiterates its request for performance standards rules in this complaint. The slow development of local competition in Georgia, as discussed in proceedings to consider BellSouth's entry into in-region interLATA service,[4] demonstrates the need for such rules. Performance standards have become a major issue in those proceedings.

WHEREFORE, ACSI hereby prays that the Commission issue the following relief in response to this Complaint:

1. order BellSouth to cease and desist form its anticompetitive practices in the provision of unbundled loops;

2. order BellSouth to cease and desist from violating the Commission's Order in Docket Nos. 6352-U, 6415-U and 6537-U by failure to provide reasonable access to unbundled loops and services for resale;

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[4] Docket Nos. 6863-U and 7253-U.

3. impose penalties on BellSouth, as provided in O.C.G.A. § 46-2-91, for violations of S.B. 137 and orders of the Commission;

4. include a discussion of this complaint in its annual report to the General Assembly, as required by O.C.G.A. § 46-5-174, on the status of the transition to alternative regulation of telecommunications services in Georgia;

5. adopt interim or permanent rules for unbundled loop provisioning, including civil penalties;

6. require BellSouth to report its current provisioning intervals for BellSouth customers and to demonstrate that competitive services are provided in parity with services provided to BellSouth customers;

7. require BellSouth to file periodic reports detailing its actual performance in providing services to CLECs;

8. require BellSouth to notify the CLEC prior to performing work on facilities serving the CLEC's customer's lines;

9. require BellSouth to establish expedite and escalate procedures for loop order processing;

10. provide for a Staff Ombudsman or Administrative Law Judge to facilitate informal mediation of CLEC disputes; and

11. issue any other relief that the Commission deems meet and proper.

This 9th day of July, 1997.

Respectfully submitted,

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